



The purpose of this modification is to: 1.) Designate Contracting Officer's Representative for litigation management purposes, 2.) Change the approving official in clause H-28 "PER DIEM AND TRAVEL ALLOWANCE", 3.) Change due dates of required documents in clause H-37 "PAYMENT OF BASE AND AWARD FEE", 4.) Incorporate contract clauses H.41 "SAFETY CONSCIOUS WORK ENVIRONMENT" and H.42 "SIGNIFICANT MATTERS FOR LEGAL MANAGEMENT PURPOSES" into the contract, 5.) Revise the distribution list for attachment A "DOE FORM 1332.1-REPORTING REQUIREMENTS", and 6.) Supersede and replace attachment D "PERFORMANCE EVALUATION PLAN". Changes are as follows:

1. The following individual is added to clause G.4 "CONTRACTING OFFICER'S REPRESENTATIVE (COR)" and is designated as the COR for litigation management purposes only.

U.S Department of Energy  
YMSCO  
P.O. Box 364629  
North Las Vegas, NV 89036-8629  
Attention: Susan L. Rives, Chief Counsel

2. Approval authority under contract clause H.28 "PER DIEM AND TRAVEL ALLOWANCE" is changed as follows (change page provided):

From: Contracting Officer (CO)  
To: Contracting Officer's Representative (COR)

3. The due dates identified in contract clause H.37 "PAYMENT OF BASE AND AWARD FEE" is changed as follows (Change page provided):

- a. The contractor will provide the DOE Award Fee Board Chairperson a written semiannual self-assessment within:

From: Ten (10) working days  
To: Five (5) working days

- b. The Fee Determination Official determination of fee will be made within:

From: 30 working days  
To: 45 working days

4. The following clauses, "H-41 SAFETY CONSCIOUS WORK ENVIRONMENT" and "H-42 SIGNIFICANT MATTERS FOR LEGAL MANAGEMENT PURPOSES", are hereby incorporated into the contract as follows:

#### **H-41 SAFETY CONSCIOUS WORK ENVIRONMENT**

In conformity with the Nuclear Regulatory Commission's (NRC) May 14, 1996, Policy Statement, "Freedom of Employees in the Nuclear Industry to Raise Safety Concerns Without Fear of Retaliation" (61 Federal Register 24336), the Contractor must maintain a working environment in which the Contractor's employees are free to raise safety concerns to the Contractor, to the DOE, or to other government agencies without fear of retaliation. The Contractor specifically agrees to comply with Section 211 of the Energy Reorganization Act (42 U.S.C.A. § 5851), which prohibits NRC licensees or applicants for a license and their contractors or subcontractors, and DOE contractors with Price Anderson indemnification, from discharging or otherwise discriminating against any employee because he or she (i) notifies his/her employer of an alleged violation of the Atomic Energy Act or the

Energy Reorganization Act; or (ii) refuses to engage in any practice made unlawful by either of said acts after having identified the alleged illegality to his/her employer; or (iii) testifies in or commences a Federal or State proceeding or enforcement action relating to either of said acts; or (iv) assists or participates in such a proceeding or in any other action to carry out the purpose of said acts. The Contractor shall inform its employees and management of the importance of raising safety concerns and how to raise safety concerns through the Contractor's management, through the DOE's management (including, without limitation, use of the OCRWM Employee Concerns Program), and through other government agencies.

#### H-42 "SIGNIFICANT MATTERS" FOR LEGAL MANAGEMENT PURPOSES

The following have been determined to be "significant matters" under 10 CFR § 719.2; therefore, the contractor must comply with 10 CFR Part 719 regarding the following:

- (a) An employee complaint filed under the Department of Energy regulations at 10 CFR Part 708, "DOE Employee Protection Program";
- (b) An employee complaint filed under the Federal Acquisition Regulation at 48 CFR Subpart 3.9, "Whistleblower Protections for Contractor Employees";
- (c) An employee complaint filed under the Nuclear Regulatory Commission regulations at 10 CFR 63.9, "Employee protection"; or
- (d) An employee complaint filed under any other employee protection regulations that implement Section 211 of the Energy Reorganization Act, 42 U.S.C.A. § 5851.

5. Section J "List of Attachments" is revised as follows:

- a. Attachment A "DOE Form 1332.1-Reporting Requirements" page J-3 "Reporting Distribution List" is superseded and replaced in its entirety by the attached Reporting Distribution List Dated 26 Sep 02.
- b. Attachment D "Performance Evaluation Plan" is superseded and replaced in its entirety by the attached Performance Evaluation Plan, 2002 Revision 0.

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End of Modification

**H.27 FAR 52.232-19 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL (APR 1984)**

Funds are not presently available for performance under this contract beyond FY 02. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond FY 02, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice for availability, to be confirmed in writing by the Contracting Officer.

**H.28 PER DIEM AND TRAVEL ALLOWANCE**

In the event that the contractor is required to travel at the direction of the Government, all travel and subsistence shall be reimbursed by the Government in accordance with government travel regulations in effect on the date of travel. In submitting claims, the contractor shall provide itemization records of travel fares and lodging. The itemization records shall be substantiated by receipts for expenses incurred. The Contractor personnel may be required to travel on available Government chartered flights. Prior approval of the Contracting Officer Representative (COR) must be obtained before travel begins. Travel not directed by the Government will not be reimbursed by the Government unless also approved by the Contracting Officer, with concurrence by the Contracting Officer's Representative and Contracting Officer's Technical Representative (COTR), prior to travel.

**H.29 CONTRACTOR'S ORGANIZATION**

Organization chart. As promptly as possible after the execution of this Contract, the Contractor shall furnish to the Contracting Officer a chart showing the names, duties, and organization key personnel to be employed in connection with the work and shall furnish from time to time supplementary information reflecting changes therein.

**H.30 OTHER CONTRACTS**

The Government may undertake or award other contracts for additional work, and the Contractor shall fully cooperate with Government employees and such other contractors and carefully fit its own work to such additional work as may be directed by the Contracting Officer. The Contractor shall not commit or permit any act, which will interfere with the performance of work by Government employees or by any other contractor.

**H.31 ADMINISTRATIVE LEAVE**

Administrative leave with full pay, chargeable to both direct and overhead accounts, will be granted for days when the DOE/YMSCO/HQ personnel are granted special

### **H.33 APPROVAL OF PERSONNEL REASSIGNMENTS, TEMPORARY**

No personnel employed under this contract will be reassigned on a temporary basis without written consent of the Contracting Officer or his/her designated representative (COR).

### **H.34 WORK HOURS**

The Contractor shall schedule work hours of all on-site personnel in a manner that will provide maximum responsiveness to the Government's requirements. Workdays and hours of Contractor's employees will be subject to the approval of the DOE COR.

### **H.35 COMPLIANCE WITH DEPARTMENT OF ENERGY DIRECTIVES AND PROJECT PROCEDURES**

The contractor shall comply with all OCRWM procedures. Copies of the applicable OCRWM procedures may be obtained by contacting the COR.

The Contracting Officer is the only Government Official authorized to provide interpretations as to the applicability of DOE Directives or to resolve possible conflicting requirements involving them. The contractor shall include the substance of this clause in subcontracts for which there are flow-down requirements identified in the Orders.

### **H.36 FAR 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)**

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

### **H.37 PAYMENT OF BASE AND AWARD FEE**

- (a) **Award Fee.** For award fee determination purposes, the contract shall be divided into six-month periods. The aggregate amount of all award fee pools shall be limited to the maximum award fee available as specified in Section B. Award fee denied during any period pursuant to the Performance Evaluation Plan shall not be available in subsequent periods.
- (b) **Base Fee.** The base fee, if any, will be paid in monthly installments based on the percentage of the estimated DPLH specified in Section B under B.2, "ESTIMATED LEVEL OF EFFORT REQUIRED," performed under the contract during the specific billing periods.
- (c) **Determination/Schedule of Award Fee.** The government shall at the conclusion of each specified evaluation period(s) evaluate the contractor's performance for a determination of award fee earned. The determination as to the amount of award fee earned will be made by the DOE Fee Determination Official (FDO). Such determination concerning the amount of award fee earned is binding on both parties.
- (d) The evaluation of the Contractor's performance shall be in accordance with the Performance Evaluation Plan (Plan). The contractor will provide the DOE Award Fee Board Chairperson with a written semiannual

self-assessment within five (5) working days after the end of the evaluation period. The Contractor's self-assessment shall provide an assessment of how well the performance expectations identified in the Plan have been executed. The Contractor shall identify major accomplishments or progress, issues, and corrective action to mitigate deficiencies. The Contractor's self assessment shall also propose and justify the amount of fee payment to be paid and include a discussion of fee reductions warranted by any failure to meet performance expectations. In the event the contractor self discloses a situation, and appropriately self-corrects the situation in a timely manner, fee reduction may be waived by the CO. The timeliness and effectiveness of the contractor's corrective action may also mitigate fee reductions for deficiencies identified by DOE or other regulatory entities.

The Contractor shall provide ten (10) copies and an electronic copy of its self-assessment of performance to DOE Contracts for distribution to DOE Performance Monitors.

While it is recognized that the determination of fee will be based on an independent government assessment, consideration will be given to the Contractor's monthly reports, self-assessment, and other available information.

The Fee Determination Official determination of fee will be made within forty five (45) working days of receipt of the Contractor's self-assessment or end of the evaluation period, whichever is later.

## **H.38 SUBCONTRACTING REQUIREMENTS**

Of the total estimated annual cost 20 percent must be set-aside for small business. This includes the definition of Small Business, Veteran Owned Business, HUBZone Small Business, Small Disadvantage Business and Women Owned Business.

## **H.39 FAR 52.219-10 INCENTIVE SUBCONTRACTING PROGRAM (OCT 2000)**

- a) Of the total dollars it plans to spend under subcontracts, the Contractor has committed itself in its subcontracting plan to try to award certain percentages to small business, veteran-owned small business (including service-disabled veteran-owned small business), HUBZone small business, small disadvantaged business, and women-owned small business concerns, respectively.

## **Report Distribution List**

**DATED: 26 SEP 02**

<b>Report Plan</b>	<b>Frequency</b>	<b>Number of Copies</b>	<b>Addresse(s) (see below)</b>
Status Reports	M	2	1,2
Task Plan	A	2	1,2
Invoices	M	2	1,2,4

- I. U. S. Department of Energy (1 original invoice copy of SF 1034 and 1 copy)  
Office of Civilian Radioactive Waste Management  
Contracts Management Division, M/S 523  
Contract Specialist  
Contract Number: DE-AC28-02RW12152  
P.O. Box 364629  
North Las Vegas, NV 89036-8629
- II. U.S. Department of Energy (1 Copy)  
Office of Civilian Radioactive Waste Management  
Contracting Officer Representative  
Contract Number: DE-AC28-02RW12152  
Bldg. 7F-034 M/S: RW-53  
1000 Independence Ave., SW  
  
Washington, DC 20585
- III. Contracting Officer Technical Representative (COTR) (as specified by task order)
- IV. U. S. Department of Energy  
Albuquerque Operations Office (original invoice copy of SF 1034)  
ATTN: AFSC/VGST  
P.O. Box 5087  
Albuquerque, NM 87185-5087